

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

**NOTICE OF MOTION**

JOSEPH BONGIOVANNI,  
PETER GERACE, JR.,

Case No. 19-CR-227

Defendants.

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S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit of Joel L. Daniels, Esq., with attached exhibits, duly sworn to on the 25<sup>th</sup> day of March, 2021, and upon the indictment and all other proceedings previously had herein, the undersigned will move this Court, at a term to be held in the United States Courthouse, Buffalo, New York, on the 14<sup>th</sup> day of April, 2021 at 10:00 o'clock in the forenoon of that date, or as soon thereafter as counsel may be heard, for an order granting the following relief:

- (1) Amendment of the original condition of Mr. Gerace's release regarding Pharaoh's pursuant to 18 U.S.C. §3145(a)(2); and
- (2) Such other and further relief as the Court deems proper.

DATED: March 25, 2021  
Buffalo, New York

Respectfully submitted,

/s/ Joel L. Daniels

JOEL L. DANIELS

Attorney for Defendant,  
PETER GERACE, JR.  
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TO: JAMES P. KENNEDY, JR., ESQ.  
United States Attorney for the  
Western District of New York  
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Attn: JOSEPH M. TRIPI, ESQ.  
BRENDAN T. CULLINANE, ESQ.  
Assistant United States Attorneys

UNITED STATES DISTRICT COURT  
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**AFFIDAVIT**

Case No. 19-CR-227

STATE OF NEW YORK     )  
COUNTY OF ERIE        ) ss:  
CITY OF BUFFALO        )

JOEL L. DANIELS, being duly sworn, deposes and says:

1. Deponent is the attorney retained to represent the defendant, Peter Gerace.

This affidavit is submitted in support of Mr. Gerace's motion pursuant to 18 U.S.C. §3145(a)(2) to amend the conditions of his release. This motion is directed only at the condition which prohibits Mr. Gerace from being present at his place of business, Pharaoh's Gentlemen's Club, located at 999 Aero Drive in Cheektowaga, New York.

2. The single condition which is the focal of this motion reads as follows:

"The defendant shall not visit Pharaoh's Gentlemen's Club located at 999 Aero Drive, Cheektowaga . . ." [Doc. 105, p. 2].

3. This affidavit is subdivided into various topics which relate to the motion.

## INDICTMENT

4. The indictment contains three counts which allege criminal conduct purportedly linked to Pharaoh's Gentlemen's Club.

5. Count 7 alleges the maintenance of a drug-related premises during the period from 2006 through December 12, 2019. There is a 14-month lapse between the end of the criminal conduct and the return of the indictment.

6. Count 8 alleges a conspiracy to distribute controlled substance during the period from 2009 through February 2019. This purported criminal conduct ended two years before the indictment was returned.

7. Count 9 alleges a conspiracy to engage in sex trafficking during the period from 2009 through 2018. This alleged criminal conduct ended over two years before the return of the indictment.

8. In addition, the indictment does not allege that Mr. Gerace was either a member or an associate of an alleged Italian organized crime enterprise [compare document 89, ¶¶ 4, 5, p. 2].

## BACKGROUND

9. On March 1, 2021, upon unsealing of this indictment, Mr. Gerace was taken into custody in Fort Lauderdale, Florida. He appeared before United States Magistrate/Judge Alicia O. Valle in the Southern District of Florida.

10. The Government requested that Mr. Gerace be released on conditions. Deponent objected to the condition which prohibited Mr. Gerace from being present at his place of business at Pharaoh's [Doc. 93, pp. 52, 58].

11. On March 4, 2021 Mr. Gerace appeared virtually before Magistrate/Judge Michael J. Roemer for arraignment. At that time, the Government did not object to Mr. Gerace's continued release on the original conditions set by the court in Florida. Magistrate/Judge Roemer allowed Mr. Gerace's release on the conditions that had previously been established.

12. Deponent asked the Court to permit Mr. Gerace to be present at his place of business in the mornings to conduct essential business matters [Doc. 104, p. 17]. This request was denied.

13. This Court has scheduled the instant motion to amend the single condition of release to filed on or before March 25, 2021.

#### **PHARAOH'S GENTLEMEN'S CLUB**

14. Mr. Gerace is the owner of Pharaoh's Gentlemen's Club. Pharaoh's has been in business since September 2005. Mr. Gerace has been employed at Pharaoh's for over fifteen years. Pharaoh's is open to the public seven days a week. It opens at 12:00 noon (6:00 p.m. on Sundays) and closes at 4:00 a.m.

15. Pharaoh's currently has approximately seventy employees, including dancers, bartenders, security personnel, servers, kitchen help and floor managers.

16. Pharaoh's, aside from the sale of alcoholic beverages, has a full kitchen which prepares and serves a varied menu [Exhibit A]. Most of the revenue generated by this gentlemen's club is in the nature of cash. Pharaoh's also maintains an ATM machine for the benefit of its patrons.

### **DAILY REVENUE - SECURED - COUNTED - DEPOSITED**

17. At closing time, the night manager deposits all receipts -- cash and credit -- in the locked safe. Only Mr. Gerace and the floor managers possess the combination to the safe.

18. Every morning, Mr. Gerace arrives at Pharaoh's through the employee entrance [Exhibit B] and routinely takes the receipts from the locked safe. After counting all the cash and organizing the bills, he sets aside cash for the drawers to be used by the bartenders. Mr. Gerace, on a daily basis, checks the ATM machine to make sure it has sufficient cash. Attached is a photograph of Mr. Gerace's office [Exhibit C].

19. After counting all of the funds, Mr. Gerace would call the bank and request the denomination of bills he would need for the business that day.

20. Mr. Gerace prepares the bank deposit documents and personally deposits the receipts into the bank account.

21. Mr. Gerace is the only one with signature authority over the business checking account. He also is solely responsible for balancing the business checkbook.

### **FOOD AND BEVERAGE ORDERING**

22. Mr. Gerace is responsible for all the food and beverage ordering.

23. Before placing his order, he checks existing food inventory.

24. Mr. Gerace then places bulk orders for food items, including French fries, chicken wings, chicken and turkey breasts, steaks and hamburgers. Food purchases approximate \$4,000 to \$5,000 per week.

25. In addition, Mr. Gerace orders other necessary items, including paper products, cleaning supplies, mixed drink components and food condiments.

26. Mr. Gerace values his longtime relationship with food providers [e.g., U.S. Foods, Latina].

27. Mr. Gerace orders liquor and beer in quantities which total \$5,000 to \$10,000 per week.

28. In determining how much beer and liquor to order, he relies upon his fifteen years of experience. This requires a virtual daily eyeball inventory of alcoholic beverages.

### MONITORING

29. As the Court knows, Mr. Gerace is confined to his home and is subjected to GPS and ankle monitoring. This obviously provides assurance that Mr. Gerace's whereabouts will be constantly monitored on a 24-hour per day basis.

WHEREFORE, deponent respectfully requests that the release condition relative to Pharaoh's be modified to permit Mr. Gerace, on a daily basis, to be present at Pharaoh's from 9:00 a.m. until 12:00 noon to conduct the various essential business functions which are outlined in this affidavit.

Sworn to before me this  
25<sup>th</sup> day of March, 2021.

/s/ Joel L. Daniels

JOEL L. DANIELS

/s/ Sandra Lee Wright

Notary Public

SANDRA LEE WRIGHT  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires October 29, 2022

## **CERTIFICATE OF SERVICE**

I hereby certify that on March 25, 2021 I electronically filed the preceding document with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

**Joseph M. Tripi, Esq.**  
**Brendan T. Cullinane, Esq.**  
**Assistant United States Attorneys**

**Defense Counsel**

I further hereby certify that I have mailed by United States Postal Service said document to the following non-CM/ECF participants:

**None**

/s/ Sandra Lee Wright  
SANDRA LEE WRIGHT